THE HONOURABLE SRI JUSTICE N.V.RAMANA

Writ Petition No.2134 of 2006

Dated: 30th August, 2006

Between:

D.Pakeer Reddy. **…..PETITIONER**

AND

The Divisiional Manager,
A.P.S.R.T.C, Mahaboobnagar
and another. **….RESPONDENTS**

THE HONOURABLE SRI JUSTICE
N.V.RAMANA

W.P.No.2134 of 2006

ORDER:

The petitioner who is a Conductor in the respondent Corporation has filed this writ petition seeking a direction to declare Final Order No.02/95 (162)/2003-KLKY, dated 6-1-2004 passed by the 2nd respondent as illegal and arbitrary and set aside the same with all consequential benefits including arrears.

The petitioner who is a Conductor in the respondent corporation was issued charge sheet dated 17-9-2003 alleging that he has committed cash and ticket irregularities on 13-9-2003 while conducting the bus. The petitioner denying the allegations gave explanation, but without considering his explanation, the

2nd respondent after conducting an enquiry passed the impugned Final Order dated 6-1-2004 deferring annual increments for a period of two years which shall have an effect on his future increments besides treating the suspension period as not on duty for the purpose of wages and increments. The petitioner aggrieved by the final orders passed by the 2nd respondent, preferred an appeal before the 1st respondent,

which was not considered till today.

Learned counsel for the petitioner submitted that the alleged passenger was in a drunken condition and was continuously traveling without alighting at Stage No.6 and for that he was imposed a penalty of Rs.50/- for overriding the bus without ticket and the checking officials having admitted the same issued Rs.4/- ticket and there is no malafide intension and negligence on the part of the petitioner as alleged in the charge sheet. The learned counsel further submitted that even if the charge is proved the punishment imposed is disproportionate to the misconduct committed. The learned counsel therefore prayed that the writ petition be allowed and the impugned order be set aside.

On the other hand, the learned Standing Counsel for respondents-APSRTC submitted that the petitioner being a Conductor, is required to follow the rule of “issue and start”, and he cannot contend that because the passenger was in a drunken condition override continuously without ticket. He submitted that the authority has passed the impugned order based on the entire evidence placed before it and there is no error or irregularity in the order, and prayed that the writ petition be dismissed.

Heard the learned counsel for the petitioner as also the learned Standing Counsel for the Corporation and perused the impugned order.

The Final Order dated 6-1-2004 of the Depot Manager, Kulwakurthy would disclose that the petitioner did not even reply to the show cause notice received by him on 29-11-2003. Admittedly, the petitioner was found guilty of the charge of cash and ticket

irregularities after a detailed enquiry, which is serious in nature. The imposition of punishment of deferment of increment for a period of 2 years with cumulative effect cannot be said to be disproportionate to the misconduct with which the petitioner was found guilty.

The apex court in **V. Ramana v. APSRTC** [1] held that the Court would not go into the correctness of the choice made by the administrator open to him and the Court should not substitute its decision for that of the administrator and that the scope of judicial review is limited to the deficiency in decision making process and not the decision, and that unless the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the court, there is no scope for interference. In that view of the matter, I am of the considered opinion, that it is not a fit case where the administrator's decision warrants interference.

For the foregoing reasons, there is no merit in the writ petition, and the same is accordingly dismissed. No costs.

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(N.V. RAMANA, J.)

Date:30th August, 2006.

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[1] (2005) 7 SCC 338